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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,693	08/11/2003	Perry Wade Schoneboom	23077-00002	1692

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/604,693

Applicant(s)

SCHONEBOOM, PERRY WADE

Examiner

Jon A Szumny

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NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 4,5,12-14,19-25 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,15-18,26,27 and 29-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 8/11/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

This is the second office action for application number 10/604,693, Support Bracket, filed on August 11, 2003.

### ***Election/Restrictions***

Applicant's election with traverse of Species 1 (corresponding to claims 1-3, 6-11, 15-18, 26, 27 and 29-31) in the reply filed on August 11, 2004 is acknowledged. The traversal is on the ground(s) that species 2-4 are merely "slight variations," of species 1, and the remainder of the species utilizes the same elements of at least one mounting bracket to contact a vertical object and a load supporting member. Finally, the applicant concludes that slight variations, explanations and added detail of the embodiment do not constitute separate species of the item. This is not found persuasive because the applicant mentioned in the specification that each of the figures of the species presented by the Examiner is an "embodiment" or "alternate embodiment" of the present invention. Clearly, for instance, the grooves 84 and 90 of the connection between the hook bracket and mounting bracket in figure 8 are distinct from the pins and holes 60,64 and 58,62 of the connection between the hook bracket and mounting bracket in figures 3-4. A similar situation exists through the species. Therefore, the requirement is still deemed proper and is therefore made FINAL.

Claims 4, 5, 12, 13, 14, 19-25 and 28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 11, 2004.

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***Information Disclosure Statement***

Receipt is acknowledged of Form PTO-1449, Information Disclosure Statement, which has been reviewed by the Examiner.

***Drawings***

The drawings are objected to because it is not understood why the hook bracket 34 is shown in phantom in figure 4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

On page 5, paragraph 27, line 2, "20" is not shown in the drawings.

Appropriate correction is required.

### ***Claim Objections***

Claims 2, 3, 6-11, 15-18 and 27-31 are objected to because of the following informalities:

In line 1, "A" should be --The--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3, 6-11, 15-18, 27 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1-3, 6-11, 15-18, 27 and 30, it is not clear if the applicant is claiming the subcombination of an assembly *for supporting* an item, wherein the assembly includes a mounting bracket *configured to contact* an object, or the combination of an assembly, an item, a mounting bracket, and an object. The preamble of claims 1 and 26 state the former, but then the combination is claimed later on in

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various claims (for instance, lines 5-6 of claim 1, "positioned at a horizontal distance around said object," lines 2-3 of claim 10, "said at least one mounting bracket is forced against said object," etc). The applicant must make it clear whether the combination or the subcombination is intended to be the invention. For instance, reciting *--adapted to be positioned--* and *--adapted to be forced--* would claim the subcombination. For the purposes of this office action, the Examiner will assume the subcombination is the invention.

### ***Claim Rejections - 35 USC § 102***

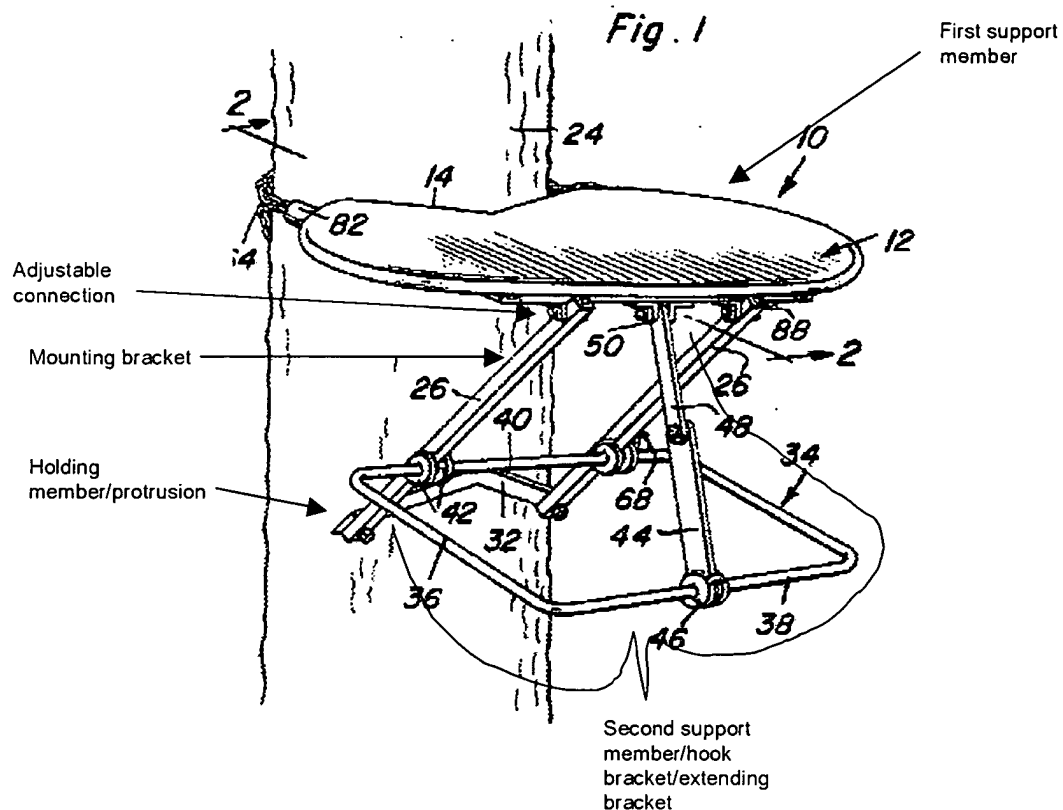
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-8, 10, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 3,513,940 to Ussery.

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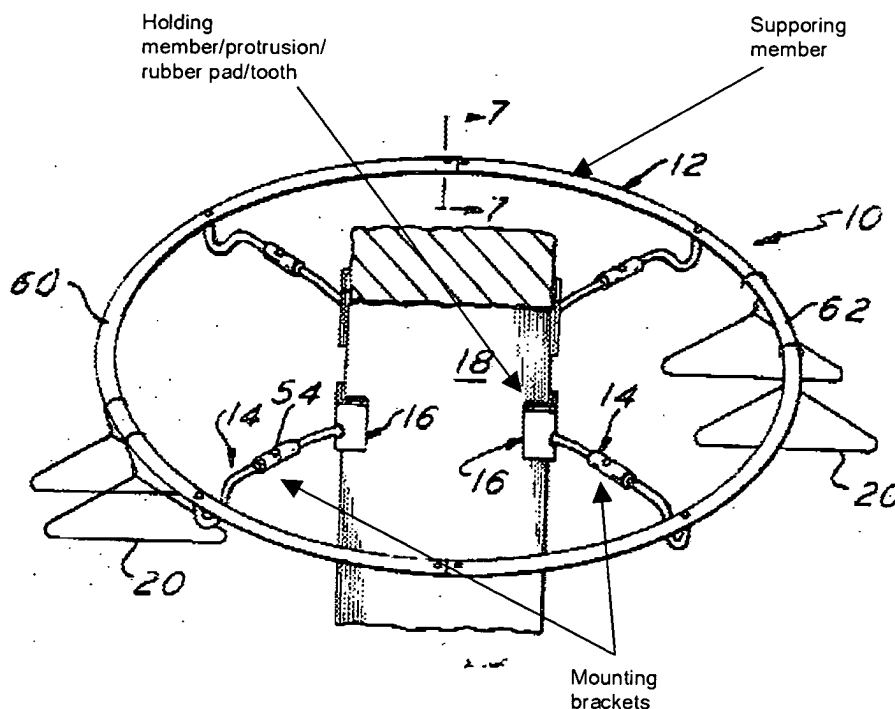


Ussery '940 discloses a bracket assembly (above) comprising at least one mounting bracket (above), and a supporting member connected to the mounting bracket, wherein the supporting member includes a first and second support member (above), wherein the mounting bracket is adjustably connected to the supporting member (above), wherein a hook bracket (above; a "hook" is a "curved device for holding" according to Merriam Webster's Collegiate Dictionary - 10<sup>th</sup> Edition, so clearly, each of the curved ends of 44 and 48 is considered a "hook" and thus this is a hook bracket) connects the mounting bracket to the supporting member, wherein the hook member is adjustably connected to the mounting bracket (near 42), wherein the mounting bracket is inherently forced against an object (24) when an item is hung from

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the supporting member, wherein the supporting member includes at least one extending bracket (above) connected to the mounting bracket, wherein the mounting bracket includes a holding member/protrusion (above).

Claims 1, 15-17, 26, 27 and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 3,613,896 to Miller, Jr.



Regarding claims 1 and 15-17, Miller, Jr. '896 discloses a bracket assembly (above) comprising at least one mounting bracket (above), and a supporting member (above) connected to the mounting bracket, wherein the mounting bracket includes a holding member/protrusion/rubber pad (above, see column 2, line 56).

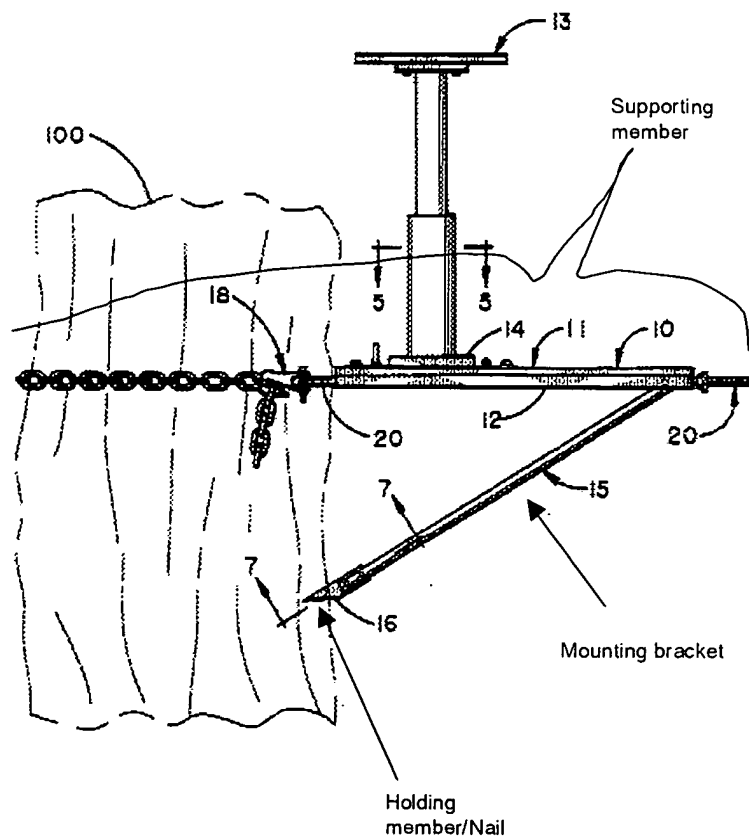
With respect to claims 26, 27 and 29-31, Miller, Jr. '896 discloses a bracket assembly (above) comprising a supporting member and a plurality of mounting brackets (above) adjustably connected (see figure 6, mounting member must be adjusted to



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remove from or insert into supporting member) to the supporting member, wherein the supporting member is inherently positioned at a horizontal distance around an object, wherein the mounting brackets are inherently configured to support hanging items, wherein the plurality of mounting brackets are inherently forced against the object when an item is hung from the bracket assembly, wherein the mounting brackets include a tooth (above).

Claims 1, 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent number 5,355,974 to Miller.



Miller '974 discloses a bracket assembly (above) comprising at least one mounting bracket (above), and a supporting member (above) connected to the

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mounting bracket, wherein the mounting bracket includes a holding member/nail (above).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ussery '940 in view of U.S. Patent number 2,854,293 to Riblet.

Ussery '940 teaches the previous invention wherein the first and second members are connected (at 9(((())), and wherein the hook bracket is connected to the supporting member (at ((())), but fail to specifically teach the first and second members to be *threadably* connected and the hook bracket to be *threadably* connected to the supporting member. Nevertheless, Riblet '293 teaches the well known concept of pivotally attaching two members via a threaded connection (column 2, lines 64-65, "bolt" is inherently threaded). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have *threadably* connected the first and second members along with the hook bracket and the supporting member since doing so is a well known method in the art to pivotally connect two objects in addition to allowing for the objects to be quickly detached for repair or replacement.

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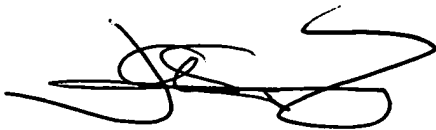
***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dudley '359, Bodendieck '715, Tripp '580, Cuba '504, Threlkeld '699, Helms '972, Burgin '215, Jarman '186 and Gohn '066 teach various bracket assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a stylized, looping flourish at the end.

Jon Szumny  
Patent Examiner  
Technology Center 3600  
Art Unit 3632  
October 15, 2004